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4- Miscellaneous copies of documents provided by Ms. [redacted] consisting of (46) pages.
5- Copies of associated MPP Manual sections consisting of (9) pages.

On January 11, 2013, at approximately 0914 hours, Subject Baldomero Enriquez #[redacted] was named by the San Bernardino County Sheriff's Department as a suspect in the burglary of his estranged [redacted]s (Complainant [redacted]) home. The case was memorialized under San Bernardino Sheriff's Department case number 111400371. At the time of the incident, Subject Enriquez was assigned to Temple Station patrol.

Subject Enriquez had previously resided in the home since the couple purchased it in 2010, but based on a [redacted] separation and [redacted] had not been living there for approximately 2 ½ years. There was an attempt to reconcile the relationship sometime in 2012, where Subject Enriquez moved back for a short term, but he again vacated the home permanently after irreconcilable differences prevailed.

The San Bernardino County Sheriff's Department conducted a complete and thorough investigation into the matter. Sufficient probable cause existed and a detective from the Rancho Cucamonga Station obtained search warrants for Subject Enriquez' residence, leased storage facility, and work locker. Consequently, pursuant to the search warrants, all of the stolen property was found in Subject Enriquez' possession.

Based on the severity of the allegations and compounded by the evidence recovered, Subject Enriquez was relieved of duty on January 31, 2014, by Captain Christopher P. Nee. The case was turned over to the Los Angeles County Sheriff's Internal Affairs Bureau (IAB) and was classified a "Criminal Monitor."

San Bernardino County Sheriff's Detectives presented the case to the San Bernardino County District Attorney's Office for consideration of residential burglary charges against Subject Enriquez.

The Case was reviewed by the San Bernardino District Attorney's Office. On April 8, 2014, Deputy District Attorney (DDA) Robert Bulloch sent notice to San Bernardino County Sheriff's detectives, informing them criminal charges would not be lodged against Subject Enriquez. DDA Bulloch cited in an interagency memorandum, there was a lack of corpus and insufficient evidence to prove guilt beyond a reasonable doubt.

Upon receipt of the rejected case status, IAB reassigned the case as a unit level investigation. Consequently through witness and complainant interviews, it was learned the handling law enforcement entities agreed Subject Enriquez had committed a burglary. The handling detective in the case stated, "we would not have expended the effort we did in the investigation had we not believed a legitimate crime had been committed." The reviewing deputy district attorney said, "but not for the reluctance of the victim to testify against the Subject," he most certainly would have filed a criminal complaint against the subject for residential burglary.

There did not appear to be any additional information which would alter the existing findings concerning Subject Enriquez' complicity in the crime, conduct and/or actions.



Jim McDonnell, Sheriff

County of Los Angeles

Sheriff's Department Headquarters

4700 Ramona Boulevard

Monterey Park, California 91754-2169



March 31, 2015

Deputy Baldomero Enriquez, #[redacted]

Dear Deputy Enriquez:

You are hereby notified that it is the intention of the Sheriff's Department to discharge you from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective the close of business April 21, 2015.

An investigation under IAB File Number 2349778, conducted by Temple Station, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures, Section(s) 3-01/030.10; Obedience to Laws, Regulations, and Orders (Specifically pertaining to Superior Court of California, County of San Bernardino, Case Number FAMRS1103673, court orders dated June 11, 2012 and May 20, 2013); and/or 3-01/050.30 Off-Duty Incidents, when on or about January 1, 2013, through January 8, 2014, you, while off-duty, entered the residence of your [redacted] on approximately seven occasions, without consent and/or permission, in violation of the court order, which awarded Ms. [redacted] "exclusive use and possession" of the family residence, pending final dissolution of marriage orders.

2. That in violation of Manual of Policy and Procedures, Section(s) 3-01/030.05 General Behavior; and/or 3-01/050.30 Off-Duty Incidents; and/or 3-01/000.10 Professional Conduct; and/or 3-01/030.10; Obedience to Laws, Regulations, and Orders (Specifically pertaining to Superior Court of California, County of San Bernardino, Case Number FAMRS1103673, court order dated June 11, 2012 and May 20, 2013), when on

or about January 1, 2013, through January 8, 2014, you, while off-duty, entered the residence of your estranged wife, [redacted] on approximately seven occasions, without consent or permission, in violation of a court order, removing items from the household without permission or consent in violation of the court order, including but not limited to: keys to the house, a punching bag, and a three ring notebook with legal documents such as birth certificates, college diplomas/transcripts/state testing results, marriage certificate and social security cards. When confronted by Ms. [redacted] you refused to return the property. San Bernardino Sheriff's Department was called to investigate a residential burglary, and after a search warrant was issued, only then did you surrender the property to the police. You failed to conform to the standards established for your position, and/or engaged in conduct, bringing discredit upon yourself and/or the Department as evidenced by your admissions during the course of an official criminal police investigation.

3. That in violation of Manual of Policy and Procedures, Section(s) 3-01/030.05 General Behavior; and/or 3-01/050.30 Off-Duty Incidents; and/or 3-01/000.10 Professional Conduct; and/or 3-01/030.15 Conduct Towards Others, you, on more than one occasion, treated Ms. [redacted] your estranged wife, in a threatening manner, unbecoming of a peace officer, bringing discredit upon yourself and/or the Department as evidenced by, but not limited to the following:

   a. On or between January 8, 2014 and January 11, 2014, you sent a text/email message to Ms. [redacted] after you took property from the home stating, "Ur n idiot when I get back my bike n all my papers I had in garage n boxing stuff my kitchen stuff then ill return it", or words to that effect; and/or,

   b. On or about October 24, 2014, you sent a text/email message to Ms. [redacted] stating, in part: "And u sud stop sending ur students at arroyo high school naked pictures of ur self or I will report u to ur supervisors".

   c. On or about February 4, 2015, you sent a text/email message to Ms. [redacted] stating, "U will never b able to teach or work at a school again and u know y just remember that", or words to that effect; and/or,

4. That in violation of Manual of Policy and Procedures, Section 3-01/040.76, Obstructing an Investigation/Influencing a Witness; and/or Section 3-01/040.85 Cooperation During Criminal Investigation, on or about February 8, 2013, you provided San Bernardino Sheriff's Department Personnel false and/or misleading statements, claiming that you resided at [redacted] stating that the judge had not ruled or mandated that you were no longer allowed at the location.

5. That, in violation of Manual of Policy and Procedures, section 3-01/040.76, Obstructing an Investigation/Influencing a Witness; and/or Section 3-01/040.85 Cooperation During Criminal Investigation, on or about January 29, 2014, during an interview with investigators from the San Bernardino Sheriff's Department, you provided false, and/or misleading statements including, but not limited to:

   a. Stating you never attempted, nor entered, the residence through the back door during the time period they were separated; and/or,

   b. Stating that you were unaware of the family law order showing possession of the residence to Ms. [redacted] on June 11, 2012, claiming you must have not been paying attention or you did not read your paperwork.

6. That in violation of Manual of Policy and Procedures, Section 3-01/040.75, Failure to Make Statements and/or Making False Statements, on or about October 24, 2014, during a Department internal affairs investigation, you provided false and/or misleading statements, including but not limited to:

   a. Denying you were aware of an order prohibiting you from entering the residence; and/or,

   b. Stating you did not know you did not have permission to have a key to the residence; and/or,

   c. Stating "I didn't know that the court had given her sole possession."

7. That in violation of Manual of Policy and Procedures, Section 3-01/040.76, Obstructing an Investigation/Influencing a Witness; and/or Section(s) 3-01/030.10 Obedience to Laws, Regulations, and Orders, when on or about October 24, 2014, you indicated that you had maintained a series of electronic emails between yourself and your [redacted] which you stated would be relevant to your administrative investigation, IAB No. IV2349778. You were asked to provide copies of any and all emails referenced, and you failed to provide them to the investigating officer, Lieutenant Edward Godfrey. On or about December 14, 2014, you were given a direct order to provide Lieutenant Godfrey with copies of all communications no later than Monday, December 22, 2014, and was reminded that failure to comply with the order could result in discipline and/or discharge. You failed to provide copies of any communications to Lieutenant Godfrey.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

You may respond to the intended action orally or in writing. In the event that you choose to respond orally to these charges, you have already been scheduled to meet with Chief Buddy Goldman, on April 16, 2015 at 1330 hours, in his office, which is located at 4700 Ramona Boulevard, Monterey Park California. If you are unable to appear at the scheduled time and wish to schedule some other time prior to April 16, 2015, for your oral response, please call Chief Goldman's secretary at [redacted] for an appointment.

If you choose to respond in writing, please call Chief Goldman's secretary to cancel your scheduled appointment, and send your response to the facts contained in this letter to Chief Goldman's office by no later than April 16, 2015.

Unless you are currently on some other type of authorized leave, pursuant to Rule 16.01 of the Los Angeles County Civil Service Commission Rules, effective immediately, you are on paid administrative leave which will continue during the fifteen (15) business days you have to respond to the intended discharge or until the conclusion of your pre-disciplinary hearing. If you are presently on an authorized leave, that leave will continue during the fifteen (15) business days you have to respond to the intended discharge, or until the conclusion of your pre-disciplinary hearing.

Failure to respond to this Letter of Intent within fifteen (15) business days will be considered a waiver of your right to respond and will result in the imposition of the discipline indicated herein.

If you did not receive the investigative material on which your discipline is based at the time you were served with this correspondence, you may contact the Internal Affairs Bureau at (323) 890-5300, to obtain a copy of the case file.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM McDONNELL, SHERIFF

Donnie L. Mauldin, Captain
Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

BG:DLM:ym

cc: Advocacy Unit
Employee Relations Unit
Chief Buddy Goldman, East Patrol Division
Internal Affairs Bureau
(File #2349778)

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LOS ANGELES COUNTY
CIVIL SERVICE COMMISSION

NOV 23 2018

CIVIL SERVICE COMMISSION

LOS ANGELES COUNTY

BALDOMERO ENRIQUEZ, Appellant Employee, vs. SHERIFF'S DEPARTMENT, Respondent Employer	CSC Case No. 15-157 RECOMMENDED DECISION, FINDINGS OF FACT AND CONCLUSIONS OF LAW

APPEARANCES

For Appellant: Michael D. Williamson
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Hearing Officer: Robert Klepa

Hearing Dates: April 6, 2016*, June 12, 2016*, November 2, 2017, November 3, 2017, August 16, 2018, and August 17, 2018

Closing Argument: Written briefs submitted on or about October 3, 2018.

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APPEAL ISSUES

On July 13, 2016, the Los Angeles County Civil Service Commission defined the issues in this matter as follows:

1. Are the allegations contained in the Department's letter of May 5, 2015, true?

2. If any or all are true, is the discipline appropriate?

3. Did the Department violate the Petitioner's pre-deprivation due process (Skelly) rights as alleged?

4. If so, what is the appropriate remedy?

EXHIBITS

The case involved multiple Exhibits, which are described in the attached Exhibit list.

INTRODUCTION/BACKGROUND

Baldomero Enriquez (Enriquez) was hired by the Los Angeles County Sheriff's Department (Sheriff's Department) on August 4, 2004 (Enriquez testimony). He graduated from the Rio Hondo police academy in 2004, before becoming a Los Angeles County Sheriff's Department Deputy Sheriff that same year (Id. and Exhibit 38). He was discharged from this position on May 5, 2015 (Id.).

According to the May 5, 2015, termination letter, Enriquez was terminated for failing to follow County rules and regulations. More specifically, the first and second basis for his termination was that Enriquez violated a court order by entering the residence of [redacted]) on seven occasions and wrongfully removing property from that residence without her permission.

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The third basis for Enriquez termination was in treating his estranged [redacted] in a threatening manner by texting statements to her on three occasions. The fourth basis for his termination was in falsely stating to a member of the San Bernardino County Sheriff's Department that he lived at the then-home of [redacted] The fifth basis for his termination was in providing false or misleading statements to a member of the San Bernardino County Sheriff's Department regarding his actions in regards to [redacted] home and his knowledge of a court order regarding entry into the home. The sixth basis for his termination was his provision of false or misleading statements during a Sheriff's Department Internal Affairs investigation regarding his knowledge of a court order and whether he had permission to possess a key to [redacted]' home.

Enriquez did not agree that he had committed any wrongdoing in this case or should have been terminated for his actions. He appealed the imposition of discipline, multiple hearing dates were held on his appeal, and this hearing decision is the result.

PROCEDURAL HISTORY

On or about March 31, 2015, Enriquez received a Notice of Intention to discharge him from his position as a Deputy Sheriff (Exhibit 37). On an unspecified date, a Skelly meeting was held and unspecified additional information provided by Enriquez, thought this information did not persuade the Department to change its position (Exhibit 38). On May 5, 2015, the Sheriff's Department issued its discharge letter (Exhibit 38). The Discharge Letter indicated that Enriquez' discharge was effective on the date of that letter (Id.).

In summary, the basis for the discharge was Enriquez' violation of various County policies and procedures that required him to comply with court orders, not take property from his [redacted], not threaten his [redacted] through text messages, and not give false statement to San Bernardino County and Los Angeles County investigators.

On or about May 12, 2015, a letter was submitted on Enriquez' behalf denying the allegations in the letter of discharge and requesting a hearing on that discharge. No response to this letter is noted in the documents provided to the Hearing Officer.

On July 13, 2016, the Civil Service Commission defined the issues in this matter (see Appeal Issues above) and evidentiary hearings were conducted. The initial hearings in this case were conducted on April 6, 2016, and June 12, 2016, by hearing officer Patrick Kilpatrick, though those transcripts were reviewed by the undersigned hearing officer in preparing this decision. The following additional hearing dates were conducted by the undersigned hearing officer: November 2, 2017, November 3, 2017, August 16, 2018, and August 17, 2018.

Written closing arguments were submitted by both Appellant and Respondent on or about October 3, 2018, and mailed to the undersigned Hearing Officer on that date. At the last hearing, the Hearing Officer confirmed that all 46 of the Exhibits submitted by the parties had been placed in evidence, except pages four to eight of Exhibit 2, which were marked for identification but never admitted into evidence. At that same time, both parties were confirmed to have rested their respective cases. The Hearing Officer respectfully submits the following decision on this appeal, as well as findings of fact and conclusions of law in support of this determination.

RELEVANT FACTS AND SUPPORTING EVIDENCE THAT RELATE TO THE ALLEGATIONS OF WRONGDOING AND THE DISCIPLINE IMPOSED.

Baldomero Enriquez (Enriquez) [redacted]. Enriquez was hired by the Los Angeles County Sheriff's Department (Sheriff's Department) on August 4, 2004 (Id.). He graduated from the [redacted] academy in 2004, before becoming a Los Angeles County Deputy Sheriff in that same year (Id. and Exhibit 38). He received a [redacted] (Enriquez testimony).

1. Prior Performance Evaluations and Discipline

No evidence was submitted by either party regarding Enriquez' performance evaluations with the Sheriff's Department. [redacted] (Enriquez testimony and Exhibit 44). [redacted] (Exhibit 42). [redacted] (Testimony of Chief Buddy Goldman).

2. January 11, 2014, Incident Involving The [redacted] Home Of [redacted]

A. Court Order Issued Regarding The [redacted] Home

[redacted]) was Baldomero Melo Enriquez' (Enriquez) [redacted] during the period from 2012 to 2014, though their [redacted] was pending during that period and they are now [redacted] (Enriquez testimony). During that period, they owned a home together in [redacted] and Enriquez stored some of his possessions there (Id.). Enriquez filed for [redacted] from [redacted] in October of 2011, while living away from the [redacted] home in an apartment (Id.). He moved back and forth between the apartment and the [redacted] home on eight occasions subsequent to the [redacted], in an attempt to save his marriage (Id.). He was living in that house with [redacted] in November of 2012 and believes he last lived there in either 2012 or April or May of 2013 (Id.).

On March 29, 2012, an Order to Show Cause (OSC) was filed by [redacted] in San Bernardino County Superior Court case number FAMRS1103673 asking for exclusive use, possession and control of the [redacted] property; though the property was described as being in Alta Loma in that document (Exhibit 46). The OSC document asked for a hearing date of June 11, 2012 (Id.). Enriquez regularly received divorce-related documents from [redacted] by mail during the [redacted] (Id.).

On June 11, 2012, the San Bernardino County Superior Court issued an order in response to the OSC (Exhibit 40). Appearing in that courtroom at the time to discuss the proposed court order awarding [redacted] exclusive use of the home were Enriquez, [redacted] and her attorney (Exhibit 40 and Enriquez testimony). During the June 11, 2012, court appearance, [redacted] attorney said she was seeking exclusive possession of the home and the judge verbally ordered that [redacted] should get "...exclusive possession of the house..." (Exhibit 1, pages 7 to 9). The judge then issued a written minute order stating that "Respondent ([redacted]) is to have exclusive use and possession of the family residence at...(redacted address)... [redacted] California..." and that "counsel for [redacted] is) to prepare order or judgment" (Exhibit 40, page 2). No evidence was submitted indicating that a written order, other than a minute order, was prepared to document the judge's ruling that day.

Enriquez indicated that he was panicked and intimidated while in court and that matters were discussed very quickly (Enriquez testimony). He recalled the court discussing child support issues during the hearing and his objecting to that discussion because the numbers involved were exaggerated (Id.). Enriquez also recalls a discussion of child custody and his asking for a continuance so he and [redacted] (Id.). Enriquez does not recall hearing the judge order that [redacted] be given exclusive possession and use of the house (Id.). On the other hand, Enriquez did mention a housing-related issue close in time to the point when the court issued its order, in stating that Enriquez had recently broken his lease (Id.). Nevertheless, Enriquez asserts that he was not focused on the judge's words when the court rendered its decision on who gained possession of the home (Id.). Instead, he was panicking, unfocused and saying anything that came to mind (Id.).

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After the hearing, [redacted] remembers the court bailiff giving [redacted] and Enriquez copies of the judge's minute order (Addy testimony quoting [redacted]), though Enriquez testified that he did not receive a copy of the order at that time (Enriquez testimony). Nevertheless, Enriquez testified to having heard the court issue an order that day taking money out of his paycheck (Enriquez testimony). Enriquez was not represented by counsel during the court hearing, though he had retained counsel at the time of the February 4, 2014, mandatory settlement conference in the same case (Enriquez testimony and Exhibit 40, page 7). On August 15, 2014, Enriquez signed the [redacted] home over to [redacted] (Exhibit 40, page 12 and Enriquez testimony).

Enriquez indicated that he was not trained in the [redacted] Academy on civil court orders except restraining orders (Enriquez testimony). [redacted] While Enriquez was never assigned to a court while a Sheriff's Deputy, he did testify in a court on multiple occasions (Id.). His understanding was that an enforceable court order must be written, have a court stamp, contain a judge's signature, and be personally served on the person required to obey that order (Id.). He knew that he had to follow any order given to him by a judge, but did not know that the family law court had issued such an order on June 11, 2012, or that any order issued on that date meant he could no longer enter the [redacted] home (Id.).

On February 8, 2013, Enriquez told San Bernardino County Sheriff's Department deputies that he was allowed to enter the [redacted] home that day, because no written court order had yet been issued barring him from that home (Exhibit 4 and Enriquez testimony). Enriquez asserts that he did not become aware of a written court order barring him from the [redacted] home until January of 2014, when he was first shown that written court minute order by San Bernardino County Sheriff's Department deputies (Id.).

Enriquez stated that he not only failed to hear the court issue its order in 2012, but would not have understood it to have barred him from the home had he heard it on that date (Enriquez testimony). On the other hand, Addy testified about his discussion of this issue with [redacted], who said that the court had given her exclusive use of her property through an order issued on June 11, 2012, and had handed the order stating this to both her and Enriquez at the end of the hearing on that date (Exhibit 35, page 5, lines 11 to 20).

B. Enriquez Enters The [redacted] Home On Or About January 8, 2014

[redacted] indicated to Addy that she had exclusive use of the Rancho Cucamonga home from June 11, 2012, onward, but that Enriquez was allowed to enter the home from July or August 2012 to December 2012, because [redacted] had moved out of the home during this period (Exhibit 35, page 2, lines 22 to 25 and page 3, lines 1 to 11). According to [redacted], Enriquez moved out of the home once again after [redacted] moved back in and should never have re-entered the [redacted] home after that point because of the court order (See also Exhibit 23, page 6, first question and answer). [redacted] also indicated to Addy that she had changed the locks on her home in 2013 to keep Enriquez from coming in and did not give him a key to the new locks (Addy testimony, generally Enriquez testimony, and Exhibit 17).

Enriquez became aware that the locks were changed on the [redacted] home no later than February 8, 2013, when he contacted the San Bernardino County Sheriff's Department and complained that [redacted] had changed the locks and thereby prevented him from entering the [redacted] home (Exhibit 4). [redacted] was at work at that time, but Enriquez nevertheless insisted that he had the right to enter the house because he still lived there, that no court order existed barring him from entering that home, and that [redacted] knew he would enter her home from time to time to take things (Exhibit 4 and Exhibit 9, page 8, lines 23 to 25)).

Enriquez later testified that [redacted] was at the home on February 8, 2013, that she let him in and that he obtained his own key to the home that day by grabbing one that was hanging from a hook (Enriquez testimony). In talking to Addy, Enriquez initially did not remember how he obtained the key he used to enter the home, but later remembered this fact while testifying in his civil service hearing (Id.). Enriquez did not understand that [redacted]' action in changing the locks on the home meant he could no longer legally enter the home (Id.).

On or around Wednesday, January 8, 2014, Enriquez used a key to enter the Rancho Cucamonga home while [redacted] was not at home and took a punching bag and various documents without [redacted]' knowledge or permission (Enriquez testimony). The documents Enriquez took included birth certificates of [redacted] children, college diplomas, and social security cards for [redacted] and her children (Exhibit 10; Exhibit 9, page 4, lines 5 to 88, page 8 lines 1 to 22, and page 10, lines 7 to 10; April 6, 2016, Hearing transcript (HT) page 83, lines 17-25, page 84, lines 1 -15; page 131, lines 9-15; page 114, lines 14-16; and page 116, lines 14-17; Exhibit 6 and Enriquez testimony). Enriquez took the documents to open bank accounts for his children, though he eventually returned them to [redacted] (Id.). [redacted] indicated that she did not expressly give a key to Enriquez to enter the house after the locks were changed and appeared shocked and stunned when she learned he had one (Id., Generally Exhibit 6; [redacted] testimony; and [redacted] testimony during an April 6, 2016, Hearing as shown in Hearing Transcript (HT) page 82, lines 10-25, page 83, lines 1-15, and page 88, lines 5-8).

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San Bernardino County Sheriff's Department officer [redacted] ([redacted]) conducted a criminal investigation in response to the January 8, 2014, entry and removal of items, and found that a forced entry had occurred through the home's side door ([redacted] testimony and Exhibit 6). [redacted] found chip marks on the door frame as well as wood and paint chips on the floor next to the door (Id.). He could not tell how long those paint chips had been there, but believed the entry marks were fresh [redacted] testimony). He estimated the age of the marks to be between one day and a few weeks (Id.). He based this estimate in part on the fact that the paint chips had not yet been blown away by the wind (Id.). While Enriquez stated that he had used a screwdriver to enter the home on at least one prior occasion, he only did so prior to his separation from [redacted] (Enriquez testimony).

On May 1, 2014 [redacted] filed an Order To Show Cause (OSC) that sought sanctions against Enriquez for having allegedly violated various court orders, including the one giving [redacted] exclusive use and possession of the [redacted] home (Exhibit 19, page 6). Specifically, the motion stated that Enriquez violated the court's prior order by entering the home on January 12, 2014, and removing documents (Id. at page 7). The Order to Show Cause was dismissed by agreement because the case settled (Exhibit 40, page 15).

C. Text Messages Sent By Enriquez to [redacted]

On January 11, 2014, [redacted] texted Enriquez and demanded back the documents he had taken from her home (Exhibit 14, page 3 and Enriquez testimony). The next day, Enriquez replied that [redacted] was an "idiot" who would not get her papers back until Enriquez' "bike," papers, "boxing stuff" and "kitchen stuff" were returned to him (Id., Exhibit 6 and [redacted] testimony at April 6, 2016 HT page 82, lines 15-25). Enriquez initially testified that he never texted his wife that he would hold her papers until his bicycle was returned, but later confirmed sending the specified text (Enriquez testimony).

On October 24, 2014, Enriquez texted [redacted] that she should stop sending her high school students naked pictures of herself or he would report her to her supervisors (Exhibit 18, page 4 and Enriquez testimony). Enriquez denied that the text suggests he was threatening to tell [redacted] employer (her school) about naked photos she was sending her students (Id.).

On February 4, 2015, Enriquez texted [redacted] a message stating that [redacted] would never be able to teach or work at a school again (Exhibit 18, page 1, and Enriquez testimony). Enriquez sent all of these texts because he was angry, though he now regrets some of what he said in them (Enriquez testimony).

D. Statements made by Enriquez about the January 8, 2014, Incident To San Bernardino And Los Angeles County Sheriff's Investigators

Enriquez knew he was required under Sheriff Department regulations to be truthful in any investigation and that violating this policy could lead to his discharge from employment (Enriquez testimony). On February 8, 2013, Enriquez told San Bernardino County Sheriff Department officers that he resided at the [redacted] address and that no court order had barred him from entering that residence (Exhibit 4). On January 29, 2014, Enriquez told San Bernardino County Sheriff Department officers that he was not aware of the court's order on June 11, 2012, giving sole possession of the home to [redacted], because he was either not paying attention when the order was being issued or did not read his paperwork (Exhibit 9, page 12 to 13). On October 24, 2014, Enriquez told a Los Angeles County Sheriff's Department investigator that he was unaware of a court order barring him from entering the Rancho Cucamonga home, and did not know the court had given [redacted] sole possession of the home (Exhibit 30, page 5, pages 43 to 44, and 47). Enriquez supported these contentions on November 10, 2014, when he told investigators that he did not need permission to enter his own home and knew of no court order preventing him from entering the [redacted] home (Exhibit 4 and Enriquez testimony).

3. Discipline Imposed

The decision maker in this case was Chief James R. Lopez (Lopez), who ordered a discharge in this matter (Exhibit 33). Lopez testified that he felt discharge was appropriate in this case, in part, because Enriquez [redacted]

Lopez felt Enriquez' actions in taking the binder of documents was serious because he violated a court order in doing so and thereby led the San Bernardino County Sheriff's Department to write a burglary report and obtain a warrant to search for evidence of a crime (Exhibit 13). Enriquez failed to obey laws by violating the court's order in entering [redacted]' residence and in removing her property from that residence. As a law enforcement officer, he was required to obey court orders and was held to a higher standard in having to follow those orders. The Department was also embarrassed by another law enforcement agency having to issue a warrant to obtain evidence against Enriquez.

Lopez felt that Enriquez' texts to [redacted] brought discredit to the Department. The text in which he discussed her ability to stay employed was deemed a threat against her. Second, Lopez was disturbed by Enriquez continued false assertion that the court order did not keep him from entering [redacted] home as well as his statement to San Bernardino Officers that he continued to reside there even after [redacted] changed the locks on the home. The Chief felt that Enriquez would not accept responsibility for his actions. While the insulting names in the texts and the filing of an order to show cause were not sufficient activity for Lopez to recommend discharge, the remaining misconduct supports that level of discipline.

Chief Buddy Goldman (Goldman) gave further testimony on the basis of the discharge. He confirmed removing ground 7 from the notice of intent to discharge because he found it invalid (Exhibit 37, page 4). He sustained the remaining grounds in the letter of discharge as valid (Exhibit 38). Goldman found that Enriquez gave a false or misleading statement to Los Angeles County Sheriff's Department investigators when he stated he did not know the court had ordered him not to enter [redacted]' home and when he stated to officers that he still lived in the home. Similarly, Goldman felt Enriquez violated the court's order when Enriquez entered [redacted]' home and took items from that home. In further aggravation, Enriquez did not accept responsibility for his misconduct and sent text messages to [redacted] in which he threatened to contact the high school where she worked regarding unspecified naked photographs. Further, Goldman felt that the need of the San Bernardino County Sheriff's Department to investigate Enriquez misconduct embarrassed the Los Angeles County Sheriff's Department.

A further aggravating factor was the letter of intent sent to Enriquez threatening but not imposing upon him, [redacted] (Exhibit 42). Goldman also cited in support of his decision a [redacted] (Exhibit 43). On the other hand, Goldman found a mitigating factor in Enriquez' years of work for the Sheriff's Department.

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DISCUSSION

1. Are the allegations contained in the Department's letter of May 5, 2015, true?

In support of its termination decision in its May 5, 2015, letter (Exhibit 38), the Los Angeles County Sheriff's Department (LASD) cited to various sections of its Manual of Policy and Procedures (Manual). The allegations in this letter involved Enriquez' failure to obey laws, regulations and orders while off-duty by entering the residence of [redacted] on approximately seven occasions without her permission and in violation of a court order (Allegation 1), and while doing so, taking documents and other items from the residence (Allegation 2). In addition, the Department asserts in that letter that Enriquez violated rules regarding conduct toward others while off-duty by acting in a threatening manner toward [redacted]. This misconduct involved Enriquez texting her that he would only return her papers when he received various items back from her, and that she must stop sending naked pictures of herself to her high school students or he would report her to her school supervisors, and that she would never be able to [redacted] again (Allegation 3).

Similarly, the Department asserts in its termination letter that Enriquez violated policies on obstructing an investigation and failing to cooperate during a criminal investigation by falsely stating to San Bernardino County Sheriff investigators that he resided at the [redacted] address (Allegation 4), that he never attempted to enter the residence through its back door and was unaware of a court order keeping him from entering that home because he was either not paying attention or did not read paperwork regarding that order (Allegation 5). Lastly, the Department asserts in that letter that Enriquez made a false statement when he told a LASD investigator that he was not aware of a court order preventing him from entering the Rancho Cucamonga home, that he did not know he lacked permission to possess a key to that residence, or that a court had given [redacted] sole possession of the home (Allegation 6). The allegations will be addressed in turn.

A. Letter Allegations 1 and 2 Are Sustained In That Enriquez Improperly Entered The Home of [redacted] And Took Multiple Items In Violation Of A Court Order

As noted above, Enriquez testified to having entered the [redacted] home of [redacted] on or around January 8, 2014. Further, he testified to having taken a notebook of papers from that home on that date without the knowledge or permission of [redacted]. The first question is whether the court's order of June 11, 2012, barred Enriquez from taking these actions.

On June 11, 2012, the San Bernardino County Superior Court issued an order both verbally and in writing, awarding [redacted] "exclusive use and possession of the family residence (Exhibit 40)." Enriquez was present when the verbal order was issued, but states that he was not bound by it because he did not hear it, never received a written version of it after the hearing ended, and was not shown a binding written copy of that order until January of 2014. Moreover, Enriquez contends that he was not bound by this order because even if it the minute order had been given to him prior to his entry into the family residence, he would not have been barred from entering the home because the order did not specifically bar him from entering that home. Further, the order was internally defective as it called for the creation of a second order documenting the court's verbal order and that second order was never created.

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In support of his last contention, Enriquez cites to In Re Marriage of Drake, (1997) 53 Cal. App. 1139. Specifically, he cites to a statement by the Drake court that "...when the trial court's minute order expressly indicates that a written order will be filed, only the written order is the effective order (Id. at page 1170)." However, Enriquez neglects to note that the Drake court was seeking to decide whether a verbal or written order controls, when both are issued in relation to the same issue by the same judge at or around the same time, but differ in what they direct (Id.). The rule cited by Enriquez is therefore dicta to the issue the Drake court was attempting to decide. Moreover, nothing in Drake speaks to our situation in which oral and written orders were issued by the same judge at or around the same time that said essentially the same thing, except to direct counsel for one side to prepare a separate written order containing the same information.

The Hearing Officer also questions the validity of the Drake court rule cited by Enriquez, as the rule does not appear in the section of Witkin cited by the court in support of its rule and contradicts long settled California Supreme court precedent in this area and that has been more recently affirmed by the California Court of Appeal (See Witkin 7 California Procedure 3rd, Judgment, pages 492 to 493; Von Schmidt v. Widber, (1893) 99 Cal. 511, 514 to 515; and Ketscher v. Sup. Ct. (1970) 9 CA. 3d 601, 604). Specifically, the California Supreme Court in Von Schmidt found that every direction of a judge is an order that must be followed, with a separate written order only being required if the verbal order is not placed in the written court minutes (Id.). Based on the foregoing, the Hearing Officer finds that the Drake court rule cited by Enriquez is not applicable to our case, and that California Supreme Court authority required Enriquez to obey the family court's possession order.

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The next question is whether Enriquez was subject to discipline for failing to obey the court's June 11, 2012, order, given his contention that he did not hear the order when it was issued and failed to obtain a written copy of that order prior to entering [redacted] home on or around January 8, 2014. In our case, Enriquez made a statement to the court right before the possession order was issued, that appeared to be relevant to the court's determination of that order (e.g. that Enriquez had just broken his lease). Moreover, Enriquez was able to hear and understand other orders issued during the specified hearing that involved child support payments and custody requirements. Enriquez actions during the hearing and ability to perceive some of the orders issued during that hearing indicate that his panic was not so complete as to prevent him from perceiving or understanding the court's possession order. Based on the foregoing, the Hearing Officer finds that Enriquez more likely than not perceived and understood the court's possession order when it was issued.

However, even if Enriquez' panic prevented him from actually hearing or understanding the possession order at the time it was spoken, he could have determined the nature of that order by asking the judge to repeat it during the hearing, by obtaining a copy of the court minute order after the hearing ended, or by asking the attorney he eventually retained in the case to clarify what orders had been issued in that case. Enriquez' [redacted], academy training, sheriff's department training and courtroom experience showed him to have the intelligence, knowledge, training and experience necessary to identify and take these steps. Moreover, Enriquez' knowledge that some binding court orders had been issued to him during the possession hearing, should have led him to take these steps to ensure that he did not take advantage of his own wrong in failing to listen to all of the court orders that were issued during the hearing (California Civil Code section 3517). For all of these reasons, Enriquez either knew or should have known about the possession order on or around January 8, 2014, and acted to obey it on or around that date.

Enriquez next asserts that even if he had heard the possession order, he would not have understood it to have barred him from entering or taking items from [redacted] home without her knowledge and permission. This argument is unavailing, because Enriquez was required to apply a reasonable interpretation to the court's possession order and that interpretation could only have been that Enriquez was barred from entering the home or taking any action in relation to that home or its contents, without the express permission of [redacted] (See generally California Civil Code section 3542 and (Blacks Law Dictionary, 5th Edition, page 1047, definition of possession)). Accordingly, Enriquez either knew or should have known that he could not legally enter or take property from the [redacted] property without the permission of [redacted] on or around January 8, 2014.

Enriquez entered the Rancho Cucamonga home on or around January 8, 2014, and took multiple documents and a punching bag away with him. The May 1, 2014, Order to Show Cause for sanctions that [redacted] filed against Enriquez as a result of Enriquez actions on or around January 8, 2014, shows that Enriquez did not have [redacted] permission to enter the home at that time or take those items. Accordingly, Letter Allegations 1 and 2 are sustained as Enriquez specifically violated the Obedience to Laws regulation and generally violated the Off-Duty Incident regulation, when he violated a lawful court order in entering the [redacted] home of [redacted] without her permission on or around January 8, 2014, and took multiple items from that home.

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B. Letter Allegation 3 Is Sustained In That Enriquez Treated [redacted] In A Threatening Manner.

A "threat" is commonly defined to be a "declaration of intention or determination to inflict punishment, loss, or pain on another..." (Black's Law Dictionary, 3rd Edition, page 1327, definition of threat). In this case, Enriquez confirmed texting [redacted] a statement in which he stated he would not return [redacted] papers unless he received his bicycle and other property back. He also texted her a statement indicating that he would report her to her high school supervisors if she did not stop sending naked pictures of herself to her students. Lastly, he texted her a statement indicating that [redacted] would never be able to teach or work at a school again.

The first text meets the definition of threat, as the text declares Enriquez' intention to continue inflicting a loss on [redacted] (e.g. her continued inability to use the documents in Enriquez possession) unless she undertook an act. The second text meets this definition because it expressly asserts an intention to act against [redacted] unless she stops undertaking certain actions. The third text also appears to be a threat, in that it expresses an intention to deprive [redacted] of her employment in an unspecified way.

As one of the texts involved calling [redacted] a name ("idiot), and all three represent threats to take an action that will inflict punishment or loss on [redacted], the Hearing Officer finds that these texts were threats made while Enriquez was off-duty, and were intended to "intentionally antagonize" [redacted] in violation of the Conduct Toward Others regulation, and the General Behavior/Off-Duty Incidents regulation. Moreover, Enriquez was a deputy sheriff at the time he made these threats and was required by his position to refrain from intentionally antagonizing anyone while on or off duty. A nexus therefore existed between his actions in sending these texts and his employment as a Deputy Sheriff, and the First Amendment does not prevent him from being disciplined for sending these threatening texts.

C. Allegation 4 Is Sustained In Part and Overruled In Part In Its Assertion That Enriquez Obstructed An Investigation Through The Statements He Made On February 8, 2013, To San Bernardino County Sheriff Deputies.

Allegation 4 applies a regulation that prohibits a Sheriff's Deputy from taking any action that delays, obstructs, distorts or wrongfully influences a law enforcement investigation. In this case, Enriquez called San Bernardino County Sheriff deputies to the [redacted] home on February 8, 2013, and told them that he still "resided" in the home and that no court order existed to prevent him from entering that home (Exhibit 4). However, a court order barring him from that home had been issued on June 11, 2012, and Enriquez knew or should have known that the order existed. Accordingly, Enriquez' statement that no court order prevented him from entering the home was a sufficiently material falsehood to distort the deputy's investigation, violate the regulation against Obstructing an Investigation, and sustain a violation of Allegation 4.

On the other hand, Enriquez may have been living in that home at that time in violation of the court order, as he indicated that he moved in and out of that home many times until May of 2013. If so, his assertion that he was residing in that home at the time of the interview might have been truthful. As insufficient evidence shows that statement was falsely uttered at the time of the interview, its utterance cannot be said to have violated the specified regulation.

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D. Allegation 5 Is Sustained In Part and Overruled in Part In Its Assertion That Enriquez Obstructed An Investigation Through The Statements He Made To San Bernardino County Sheriff's Deputies on January 29, 2014.

On January 29, 2014, Enriquez was interviewed by the San Bernardino County Sheriff's Department as part of a criminal investigation arising from his entry into the [redacted] home on or about January 8, 2014. During that interview, Enriquez stated that he was unaware of a family law court order giving full use and possession of that home to [redacted] (Exhibit 9, page 12 to 13) and that he had never entered the home through its back door when he [redacted] during the years 2012 and 2013 (Exhibit 9, page 19, lines 5 to 14).

As noted above, Enriquez knew or should have known of a court order issued on June 11, 2012, giving [redacted] use and possession of the [redacted] home. Accordingly, Enriquez' statement that he was unaware of such an order at the time of the interview, was a sufficiently material falsehood to distort the deputy's investigation, violate the regulation against Obstructing an Investigation, and sustain a violation of Allegation 5(b).

On the other hand, the Hearing Officer does not find that Enriquez made a false statement to investigating officers on January 29, 2014, when he denied entering the home during the period from 2012 to 2013 when he [redacted]. While he confirmed in a later interview with LASD officers in October of 2014, that he used a screwdriver to enter the home on occasion when he [redacted], he did not mention anything in that later interview about an attempt to enter the home through the back door when he was separated from [redacted] (Exhibit 30, page 8).

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Moreover, the evidence submitted at the hearing showed that the only forced entry into the home that might have occurred during a period when Enriquez was separated from [redacted] (in or around January 8, 2014), was through the home's side door (Exhibit 6, page 5). In addition, Enriquez uncontested testimony was that he used a key to enter the home in January of 2014, and that he did not need to force his way into the home through the side or back doors at that time. As Enriquez never denied entering the home through its back door when he was separated from [redacted], and no hearing evidence confirmed that he did so during a period when he was separated from [redacted], Allegation 5(a) was not sustained.

E. Allegation 6 Is Sustained In Part and Overruled In Its Assertion That Enriquez Violated The Regulation Prohibiting The Making Of False Statements Through Statements He Made To Los Angeles County Sheriff's Investigators On October 24, 2014

On October 24, 2014, Enriquez told a Los Angeles County Sheriff's Department investigator that he was unaware of a court order barring him from entering the [redacted] home and that he did not know the court had given [redacted] sole possession of that home (Exhibit 30, page 5, pages 43 to 44, and 47). As noted above, Enriquez knew or should have known of a court order issued on June 11, 2012, giving [redacted] sole use and possession of the [redacted] home. Accordingly, Enriquez falsely stated during the investigation that he did not know he was barred from entering the [redacted] home or that a court had given [redacted] sole possession of that home. Enriquez' false statements in this regard violated the regulation against Making False Statements During Departmental Internal Investigations and support a finding that Allegations 6 (a) and (c) were sustained.

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On the other hand, the Hearing Officer was unable to find a statement from Enriquez anywhere in the specified interview transcript, in which he confirmed knowing that he lacked permission to possess a key to the residence. The closest that was found was when an investigator asked Enriquez during that interview whether he thought [redacted] gave Enriquez permission to take a key (Exhibit 30, page 43 to 44). In response, Enriquez said he "…did (not) think he needed permission to take a key to my own house…" (Id.). The Hearing Officer did not find that Enriquez response confirmed his knowledge that he lacked permission to possess a key to the residence. Instead, it showed a belief that he did not need permission to possess a key, whether it was given or not.

In addition to Enriquez failing to make the statement cited by the Sheriff's Department in the discharge letter, the uncontradicted evidence is that Enriquez was living in the house with [redacted] for various periods of time (Enriquez testimony). By allowing Enriquez to live in the home during these periods, [redacted] impliedly granted him permission to take a key he found in the house during one of his stays. For these reasons, the Hearing Officer finds that insufficient evidence was presented at the hearing to sustain Allegation 6(b).

<u>2. If any or all of the allegations in the Department's letter of May 5, 2015, are true, is the discipline appropriate?</u>

The relevant Departmental guidelines suggest a level of discipline from written reprimand to discharge for all charges (Exhibit 33, page 7). The exceptions are violation of a court order which has a maximum discipline level of a 5-day suspension and using discourtesy toward others which has a maximum discipline level of a 10-day suspension (Id.). The highest minimal penalty recommended for any charge is 25 days to discharge for giving untruthful or misleading statements during a criminal investigation (Id.). The next highest recommended discipline is 15 days to discharge for making false statements during a department investigation and obstructing an investigation (Id.).

In determining the appropriate level of discipline, the Hearing Officer noted that Enriquez [redacted] and that a higher level of discipline should therefore be imposed under the doctrine of progressive discipline. Moreover, the guidelines for discipline recommend that a 25-day suspension be the minimum level of discipline imposed in this case, as Enriquez gave a false statement to San Bernardino County Sheriff's Deputies during a criminal investigation. Moreover, the sustaining of all or part of six separate Allegations, many involving multiple instances of wrongdoing, supports the imposition of an even higher level of discipline.

Similarly, the fact that Enriquez held a position as a law enforcement officer while knowingly violating a law (e.g. a court order) on multiple occasions, supports the imposition of a higher-level of discipline. In addition, his failure to accept responsibility for his actions supports the imposition of a higher level of discipline. On the other hand, mitigating factors include Enriquez' years of service with the Department and the fact that elements of three Allegations were not sustained in this case. Nevertheless, in weighing the aggravating and mitigating factors, the Hearing Officer determined that discharge was the appropriate discipline to impose.

3. Did the Department Violate The Petitioners Pre-Deprivation Due Process (Skelly) Rights As Alleged?

Enriquez did not provide any evidence during the hearing that his Skelly rights had been violated. Accordingly, no Skelly violation was found.

4. If So (A Skelly Violation Is Found), What Is The Appropriate Remedy?

As noted above, no Skelly violation was found. Accordingly, no remedy for a Skelly violation is required.

FINDINGS OF FACT

1. Baldomero Enriquez (Enriquez) [redacted]

2. Enriquez was hired by the Los Angeles County Sheriff's Department (Sheriff's Department) on August 4, 2004.

3. Enriquez [redacted] Academy in 2004, before becoming a Los Angeles County Deputy Sheriff that same year.

4. Enriquez [redacted].

5. [redacted] During that period, they owned a home together in [redacted] and Enriquez stored some of his possessions there.

6. Enriquez [redacted] in October of 2011, while living away from the [redacted] home in an apartment. He moved back and forth between the apartment and the [redacted] home [redacted] and was living in that house with [redacted] in November of 2012.

7. Enriquez moved in and out of that house on eight separate occasions during the specified years, and last lived there no later than May of 2013.

8. On March 29, 2012, an Order to Show Cause (OSC) was filed by [redacted] in San Bernardino County Superior Court case number FAMRS1103673 asking for exclusive use, possession and control of the [redacted] property; though the property was described as being in Alta Loma in that document. The OSC document asked for a hearing date of June 11, 2012. Enriquez regularly received [redacted] documents from [redacted] by mail throughout the [redacted].

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9. On June 11, 2012, the San Bernardino County Superior Court issued an order in response to the OSC. Appearing in that courtroom at the time to discuss the proposed court order awarding [redacted] exclusive use of the home were Petitioner Baldomero Melo Enriquez (Enriquez), Respondent [redacted] and her attorney. During the June 11, 2012, court appearance, [redacted] attorney said she was seeking exclusive possession of the home and the judge verbally ordered that [redacted] was to get "...exclusive possession of the house..." The judge then issued a written minute order stating that "Respondent [redacted]) is to have exclusive use and possession of the [redacted] residence at...(redacted address)... [redacted] California..." and that "counsel for [redacted] is) to prepare order or judgment". Enriquez heard the order issued at that time and understood its meaning.

10. No evidence was submitted indicating that a written order, other than a minute order, was prepared by anyone documenting the judge's ruling on June 11, 2012.

11. Enriquez received training through the [redacted] Academy on civil orders, as well as through the Los Angeles County Sheriff Department on collection orders and restraining orders.

12. Enriquez knew he had to obey any lawful court order issued to him. The June 11, 2012, court order was lawful when issued to him and thereafter. He should have obeyed it at all times.

13. On February 8, 2013, Enriquez told San Bernardino County Sheriff's Department deputies that he was allowed to enter the [redacted] home that day, because no written court order had yet been issued barring him from the home. Enriquez knew this was an untrue statement.

14. [redacted] was given exclusive use of the [redacted] property through an order issued by the Superior Court on June 11, 2012.

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15. Enriquez was allowed to enter the Rancho Cucamonga home by [redacted] from July or August 2012 to December 2012, because [redacted] had moved out of the home during this period. Once [redacted] moved back into the home in 2012, Enriquez moved out again.

16. [redacted] had changed the locks on her home in 2013 to keep Enriquez from coming in and did not expressly give him a key to the new locks. However, she allowed him to live in that home on and off until, at the latest, May of 2013. This action indicated implied permission for him to take and use a key he found in the home to re-enter the home.

17. Enriquez became aware that the locks were changed on the [redacted] home no later than February 8, 2013, when he contacted the San Bernardino County Sheriff's Department and complained that [redacted] had changed the locks and thereby prevented him from entering the [redacted] home. [redacted] was at work at that time, but Enriquez nevertheless insisted that he had the right to enter the house because he still lived there, that no court order existed barring him from entering that home, and that [redacted] knew he would enter her home from time to time to take things. The statements made by Enriquez to officers at this time were untrue. Nevertheless, Enriquez entered the home that day and obtained a key to the home that was hanging from a hook inside the home.

18. On Wednesday, January 8, 2014, Enriquez used a key to enter the [redacted] home while [redacted] was not at home and took a punching bag and various documents without [redacted] knowledge or permission, including birth certificates of [redacted]' children, college diplomas, and social security cards for [redacted] and her children. He took the documents to open bank accounts for his children and eventually returned them to [redacted] indicated that she did not intentionally give the key to Enriquez that he used to take the items and she appeared shocked and stunned when she learned he had one.

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19. San Bernardino County Sheriff's Department officer [redacted] investigated the unauthorized entry into the [redacted] home on January 11, 2014, and found that a forced entry had occurred through its side door at some point. [redacted] found chip marks on the door frame as well as wood and paint chips on the floor next to the door. He could not tell how long those paint chips had been there, but believed the entry marks were fresh, estimating their age as between one day and a few weeks. He based this estimate in part on the fact that the paint chips had not yet been blown away by the wind. While Enriquez stated that he had used a screwdriver to enter the home on at least one prior occasion, he only did so while he was living with [redacted].

20. On May 1, 2014, [redacted] filed an Order To Show Cause (OSC) that sought sanctions against Enriquez for having allegedly violated various court orders, including the one giving [redacted] exclusive use and possession of the [redacted] home. Specifically, the motion stated that Enriquez violated the court's prior order by entering the home in or around January 12, 2014, and removing documents. The Order to Show Cause was dismissed by agreement because the case settled. The OSC shows that Enriquez did not have [redacted] permission to enter the home or take items from the home in or around January 12, 2014.

21. On January 11, 2014, [redacted] texted Enriquez and demanded back the documents he had taken from her home. The next day, Enriquez replied with a text that said [redacted] was an "idiot" who would not get her papers back until Enriquez' "bike," papers, "boxing stuff" and "kitchen stuff" were returned to him. This text constituted a threat against [redacted] that was sent to antagonize her.

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22. On October 24, 2014, Enriquez texted [redacted] that she should stop sending her high school students naked pictures of herself or he would report her to her supervisors. No evidence was submitted showing that such pictures existed. The text constituted a threat against [redacted] that was sent to antagonize her.

23. On February 4, 2015, Enriquez texted [redacted] a message stating that [redacted] would never be able to teach or work at a school again. This text constituted a threat that was intended to antagonize her.

24. On January 29, 2014, San Bernardino County Deputy Sheriffs interviewed Enriquez as part of a criminal investigation arising from his wrongful entry into [redacted] home on January 8, 2014. During the interview, Enriquez falsely told the deputies that he was unaware of a court order assigning possession of the home to [redacted] This misstatement was so material to that investigation that it distorted the deputy's investigation.

25. The Hearing Officer was unable to find a statement in the transcript of the January 29, 2014, interview, showing that Enriquez told the Sheriff's Deputies that he never entered the [redacted] residence through its back door when he was separated from [redacted]. No evidence showed that he tried to do so during a period of separation.

26. On October 24, 2014, Enriquez told a Los Angeles County Sheriff's Department investigator that he was unaware of a court order barring him from entering the [redacted] home, and that he did not know the court had given [redacted] sole possession of the home. The statements were not true.

27. The Hearing Officer was unable to find a statement from Enriquez anywhere in the October 24, 2014, interview transcript, in which he states that he did not know he lacked permission to possess a key to the residence.

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28. Enriquez called San Bernardino County Sheriff deputies to the [redacted] home on February 8, 2013, and told them that he still lived in the home and that no court order existed to prevent him from entering that home. The first statement might have been true on that date, while the second statement was untrue.

29. On May 5, 2015, the Sheriff's Department issued its discharge letter to Enriquez. The Discharge Letter indicated that Enriquez' discharge was effective on the date of that letter.

30. [redacted]

31. [redacted]

32. The Hearing Officer believes that the County acting correctly in terminating Enriquez from employment due to the sustained conduct in this case.

33. No evidence of a Skelly violation was provided during the hearing, so no violation of Enriquez' Skelly rights was found.

CONCLUSIONS OF LAW

1. The allegations contained in the Department's letter of May 5, 2015, were substantiated in part and unsubstantiated in part.

2. Letter Allegation 1 was substantiated in alleging that Enriquez entered the home of [redacted] home on approximately seven occasions without her consent or permission in violation of a court order.

3. Letter Allegation 2 was substantiated in alleging that Enriquez entered the home of [redacted] home on approximately seven occasions without her consent or permission in violation of a court order and took various items of property from the home that he initially refused to return.

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4. Letter Allegation 3 was substantiated in alleging that Enriquez treated [redacted] in a threatening manner by sending text messages to her that insulted her, threatened to keep items he took from her home unless certain actions were taken, threatened to report alleged actions of hers to her work supervisors, and suggesting that she would never again be able to work as a teacher.

5. Letter Allegation 4 was substantiated in part and unsubstantiated in part. The Allegation was substantiated in alleging that Enriquez told San Bernardino County Sheriff Department investigators that a judge had not ruled or mandated that he was no longer allowed in [redacted] home. The Allegation was not substantiated in alleging that Enriquez made a false statement in telling San Bernardino County Sheriff Department investigators that he then resided in [redacted]' home.

6. Letter Allegation 5 was substantiated in part and unsubstantiated in part. The Allegation was substantiated in alleging that Enriquez falsely informed San Bernardino County Sheriff Department investigators that he was unaware of a court order giving possession of [redacted] residence to her. The Allegation was not substantiated in alleging that Enriquez falsely informed San Bernardino County Sheriff Department investigators that he never attempted to enter nor entered [redacted]' residence through the back door while he was separated from [redacted].

7. Letter Allegation 6 was substantiated in part and unsubstantiated in part. The Allegation was substantiated in alleging that Enriquez provided false information during a Los Angeles County Sheriff's Department investigation by denying awareness of an order prohibiting him from entering [redacted] home and in stating that he did not know that a court had given her sole possession of that home. The Allegation was not substantiated in alleging that Enriquez falsely informed Los Angeles County Sheriff Department investigators that he did not know he lacked permission to possess a key to [redacted] residence.

8. The discipline imposed in this case (termination) is appropriate.

9. No Skelly violation was found to exist in this case, so no remedy for such a violation is required.

RECOMMENDATIONS

The hearing officer recommends that Baldomero Melo Enriquez' appeal of his discharge be denied and his termination from employment as a Los Angeles County Deputy Sheriff be sustained.

Dated: November 8, 2018

Robert Klepa
Hearing Officer



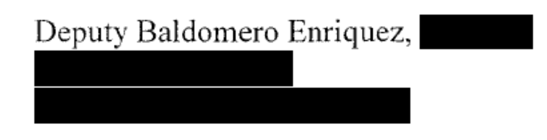
County of Los Angeles

Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



JIM McDONNELL, SHERIFF

May 5, 2015


Deputy Baldomero Enriquez, [redacted]
[redacted]

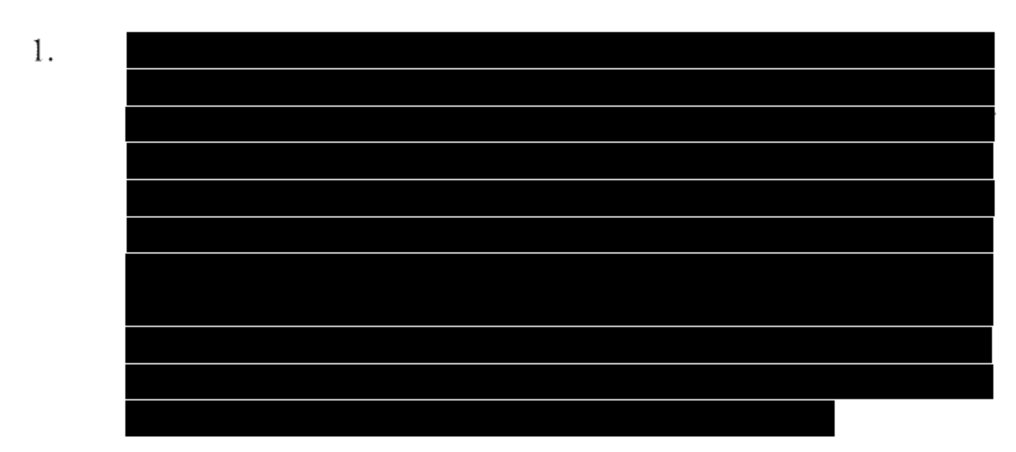
Dear Deputy Enriquez:

On March 31, 2015, you were served with a Letter of Intention indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IAB 2349778. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. However, after review and consideration of the response submitted to support your position, it has been determined that the recommended discipline is appropriate.

You are hereby notified that you are discharged from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective as of the close of business on May 5, 2015.

An investigation under File Number IAB 2349778, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. 
[redacted]

2. [redacted]

3. [redacted]

[redacted]

[redacted]



[redacted]

[redacted] [redacted]

[redacted] [redacted]

[redacted]

[redacted]e not been paying attention or you did not read your paperwork.

6. That in violation of Manual of Policy and Procedures, Section 3-01/040.75, Failure to Make Statements and/or Making False Statements, on or about October 24, 2014, during a Department internal affairs investigation, you provided false and/or misleading statements, including but not limited to:

   a. Denying you were aware of an order prohibiting you from entering the residence; and/or,

   b. Stating you did not know you did not have permission to have a key to the residence; and/or,

   c. Stating "I didn't know that the court had given her sole possession."

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

In taking this disciplinary action, your record with this Department has been considered, and a thorough review of this incident has been made by Department executives, including your Unit and Division Commanders.

You may appeal the Department's action in this matter pursuant to Rules 4.02, 4.05 and 18.02 of the Civil Service Rules.

You may, if you so desire, within fifteen (15) business days from the date of service of this notice of discharge, request a hearing on these charges before the Los Angeles County Civil Service Commission, 222 North Grand Avenue, Los Angeles, California 90012.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM M. McDONNELL, SHERIFF

Buddy Goldman

BUDDY GOLDMAN, CHIEF
SOUTH PATROL DIVISION

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules.

BG:EMS:DLM:ym

cc: Advocacy Unit
Buddy Goldman, Chief, South Patrol Division
Corrone L. Jacob, Captain, Temple Station
Internal Affairs Bureau
Judy A. Gerhardt, Captain, Personnel Administration